

EMILY DACK, KIM HENSLEY-HAUSER, )  
MATTHEW DORTON, LARRY PIKE, TONY ) No. 4:20-cv-00615-BCW  
CARRILLO, CHRIS CATES, ROGER DOYLE, )  
JACOB MILLER, SARAH NORRIS BARLOW, )  
BRANDON BARLOW, CHAD RITTERBACH, )  
JOHNATHAN JONES, MARK PULVER, and )  
ASHLEY PULVER individually and on behalf of )  
others similarly situated, )  
  
Plaintiffs, ) JOINT PROPOSED  
 ) SCHEDULING ORDER  
  
vs. )  
  
VOLKSWAGEN GROUP OF AMERICA, INC., a )  
New Jersey corporation, a/k/a VOLKSWAGEN )  
OF AMERICA, INC; and VOLKSWAGEN, AG, )  
a/k/a VOLKSWAGEN GROUP, a foreign )  
corporation, )  
  
Defendants. )

Pursuant to Rules 16(b) and 26(f) of the Federal Rules of Civil Procedure, Plaintiffs and Defendant Volkswagen Group of America, Inc. (“VWGoA”) respectfully submit the following proposed scheduling order:

1. Defendant VWGoA has filed a Rule 12 motion to dismiss Plaintiffs' Complaint. Pursuant to the approved briefing schedule, Plaintiffs have filed a response, and VWGoA will be filing a reply. The Court's determination of that motion will affect whether or to what extent there may be an amended pleading.

2. The parties are to exchange Rule 26(a)(1) disclosures the later of March 5, 2021 or 14 days after Defendant's Answer to the Complaint or other amended pleading, if any.
3. Defendant may also bring other motions under Rules 12 and/or 56 at any time as permitted by the Federal Rules of Civil Procedure. The Parties will work together on a briefing schedule for any Rule 56 Motion for Summary Judgment.
4. Any motion to join additional parties shall be filed on or before the later of September 13, 2021 or 75 days following the filing of Defendant's Answer in this matter.

**B. MEDIATION AND ASSESSMENT PROGRAM (MAP)**

At the present time, it is premature to address the issue of a potential mediation. However, consistent with the Court's rules, the Parties have agreed to use Bradley A. Winters as their private mediator for any future mediations. The Parties request that all MAP deadlines and proceedings be stayed in this matter until 75 days after Defendant has filed an Answer if the pending motion to dismiss is not granted in its entirety.

**C. DISCOVERY**

1. The Parties propose that, while the motion to dismiss is pending, discovery related to the "core issues" in this litigation commence on April 1, 2021. Plaintiffs will limit this discovery to: discovery into the root cause of the alleged defect, information necessary for class certification, and information concerning when Defendants may have gained knowledge of the alleged defect.

2. This core discovery and discovery related to class certification shall be completed on or before February 28, 2022. If a decision on the motion to dismiss issues prior to May 7, 2021 then all discovery shall be completed by February 28, 2022. Should the ruling on the motion to dismiss occur after that date the Parties request 150 additional days to finalize all discovery in

this matter.

3. All pretrial discovery authorized by the Federal Rules of Civil Procedure shall be conducted consistent with the Rules of Civil Procedure and the Local Rules of the Western District of Missouri. This means that all discovery shall be completed, not simply submitted, on the dates specified for the completion of discovery. Accordingly, all discovery requests and depositions shall be submitted and/or scheduled prior to those dates and shall allow sufficient time for completion within the time specified by the Federal Rules of Civil Procedure, the Local Court Rules, and/or orders of this Court. Unless otherwise stipulated or ordered by the Court, a deposition is limited to one (1) day of seven (7) hours of testimony. The only modification to the discovery limitations in the Federal Rules is that the depositions of named Plaintiffs and any corporate deposition of Defendant shall not count against the ten depositions per side limit contained in the federal rules. The Court reserves the right to exercise control over the taking of depositions.

4. On or before September 24, 2021, the Parties shall jointly file a status report advising the Court of the status of discovery. That report shall include a description of all discovery completed, all discovery scheduled but not yet completed, all discovery at that time identified as necessary but not yet scheduled, and all existing discovery disputes.

5. Plaintiffs shall file their motion for class certification, and submit any expert reports in support of class certification, on or before March 21, 2022. Defendants shall file any suggestions in opposition to the motion for class certification, and any expert reports in opposition to certification, on or before May 27, 2022. Plaintiffs shall file their reply suggestions in support of their motion for class certification on or before July 22, 2022.

Parties will cooperate on scheduling depositions of experts disclosed with certification

brief and provide deposition dates within two weeks of the disclosure, unless the Parties agree on a different date.

**D. EXPERTS**

Any expert reports and disclosures in support of or in opposition to class certification shall comply with Rule 26.

Unless otherwise agreed upon by the parties, designated experts will be made available for deposition in the order in which they are disclosed, at times/locations to be agreed, within thirty (30) days of the date they are disclosed.

**E. EXTENSIONS OF TIME.**

All motions for extension of time pursuant to FRCP 6(b) or FRCP 31, 33, 34 and 36 must state:

- a. The date when the pleading, response or other action is/was first due;
- b. The number of previous extensions and the date the last extension expires;
- c. The cause for the requested extension, including a statement as to why the action due has not been completed in the allotted time; and
- d. Whether the requested extension is approved or opposed by opposing counsel (agreement by counsel to a requested extension is not binding on the Court).

**F. SUBSEQUENT PROCEEDINGS.**

Within fourteen (14) days of the Court's ruling on any motion to certify a class, the Parties shall submit to the Court a Status Report regarding any outstanding matters, and shall propose a trial date for this matter.

Dated: January 20<sup>th</sup>, 2021

Respectfully submitted,

/s/ Bonner C. Walsh

Bonner C. Walsh

(*pro hac vice*)

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*Attorneys for Defendant Volkswagen Group  
of America, Inc.*

### **CERTIFICATE OF SERVICE**

I hereby certify that on this 20<sup>th</sup> day of January, 2021, I filed the foregoing document with the clerk of the court using the court's CM/ECF system, which will serve electronic notice on all parties of interest.

/s/ Bonner C. Walsh  
Bonner C. Walsh